

IN RE: PETITION FOR ZONING VARIANCE
NW/8 Belair Road, 131' NE of
Walter Avenue
(9502 Belair Road)
11th Election District
5th Councilmanic District
Gustav C. Klausmeier, et al
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-106-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 235.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit setbacks from the front building line of 11 feet in lieu of the required 15 feet, and 0 feet in lieu of the required 15 feet for an existing building and overhang, and a variance from Sections 235.2 and 235.3 of the B.C.Z.R. to permit a side yard setback of 0 feet in lieu of the required 20 feet and rear yard setbacks of 2 feet each in lieu of the required 20 feet, for a proposed addition and alterations, in accordance with Petitioner's Exhibit 1.

The Petitioners, Gustav C. Klausmeier, and John F. Klausmeier, appeared, testified and were represented by Michael P. Tanczyn, Esquire. Also appearing on behalf of the Petitioners were Ronald Rye, Land Planner, and Glenn Watkins, Jr., Architect and Planner. Appearing as Protestants in the matter were Lester Horn, represented by C. Theresa Beck, Attorney at Law.

Testimony indicated that the subject property, known as 9502 Belair Road, consists of .34 acres zoned B.M. and is improved with a one and one-half story auto service garage with accessory garage and storage buildings. Petitioner is desirous of constructing an addition to the existing service garage building and making alterations to the existing accessory uses in accordance with Petitioner's Exhibit 1. Testimony indi-

cated the relief requested is necessary due to the location of the existing buildings which have existed on the site since 1922 and do not meet current setback requirements. Petitioner presented testimony which clearly satisfied the requirements of Section 307.1 of the B.C.Z.R. Further, the testimony presented indicated the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding uses.

Lester Horn appeared and testified in general opposition to the relief requested. His testimony offered no evidence to contradict the Petitioner's testimony as to the requested variances. Mr. Horn is opposed to the operation of the service garage at the subject location, mainly due to the effects of said operation on surrounding properties. Mr. Horn owns the adjacent property to the south of the subject site and there exists a common use driveway between the Petitioner's property and the property of Mr. Horn. Testimony presented by Mr. Horn indicated that on past occasions, this common use drive, which services both properties, has been blocked by automobiles that were either being worked on at Petitioner's service garage, or were there in some other capacity associated with the Petitioner's service garage. The Protestant's concerns will be addressed in the conditions and restrictions placed upon the granting of the relief requested at the end of this Order.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, subject to the restrictions imposed hereinafter, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 22nd day of October, 1991 that the Petition for Zoning Variance from Section 235.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit setbacks from the front building line of 11 feet in lieu of the required 15 feet, and 0 feet in lieu of the required 15 feet for an existing building and overhang, and a variance from Section 235.2 and 235.3 of the B.C.Z.R. to permit a side yard setback of 0 feet in lieu of the required 20 feet and rear yard setbacks of 2 feet each in lieu of the required 20 feet, for a proposed addition and alterations in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such

time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) Prior to the issuance of any permits, Petitioner shall submit a landscape plan for approval by the Deputy Director of Planning and the Landscape Planner for Baltimore County. A copy of the approved plan shall be submitted to the Zoning Commissioner's Office for final review and inclusion in the case file.

3) The Petitioner shall not permit any vehicle associated in any manner with his auto service garage to be parked in the private common use drive as that area is depicted on Petitioner's Exhibit 1. Any and all vehicles that are being serviced by Petitioner shall be stored on Petitioner's property in such a manner so as not to encroach on the private common use drive.

4) Petitioner shall not allow or cause any unlicensed or untagged vehicles to be stored on the property.

5) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROOD
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

ORDER RECEIVED FOR FILING
Date 10/22/91
By [Signature]

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-106-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section (See Attached Schedule A)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons (Indicate hardship or practical difficulty)

To the extent of the following:

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Michael P. Tanczyn, Esq.
(Type or Print Name)

Signature

606 Baltimore Avenue, Suite 106
Address

Towson, MD 21204
City and State

Attorney's Telephone No.: 296-8823

Legal Owner(s):

GUSTAV CARL KLAUSMEIER

(Type or Print Name)

Signature

JOHN FREDERICK KLAUSMEIER

(Type or Print Name)

Signature

9500 Belair Road 256-5468
Address Phone No.

Baltimore, MD 21236
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Michael P. Tanczyn, Esq.

Name

606 Baltimore Avenue, Suite 106

Towson, MD 21204 296-8823
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day

of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, the property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock

_____ M.

Zoning Commissioner of Baltimore County.

(over) ORDER RECEIVED FOR FILING

Date 10/22/91

By [Signature]

PETITION FOR ZONING VARIANCE OF
GUSTAV CARL KLAUSMEIER & JOHN FREDERICK KLAUSMEIER
9502 BELAIR ROAD

SCHEDULE A

Variance from §235.1 to allow 11' setback in lieu of the required 15' from the front building line and a 0' setback for an existing overhang in lieu of the required 15' on the front property line.

Variance from §235.2 and §235.3 to allow side yard setbacks of 0' in lieu of the required 20' setback and rear yard setbacks of 2' and 1' in lieu of the required 20' setbacks.

KLAUSMEIER
8/22/91

ZONING DESCRIPTION

BEGINNING at a point on the west side of the Belair Road right of way, which is sixty (60) feet wide, at a distance of 131.20 north of the centerline of the existing paving of Walter Avenue, which has a variable width right of way with a minimum width of sixty (60) feet, thence the following courses and distances: North 10°36'00" East 257.04 feet, South 50°09'37" East 132.54 feet, and South 41°37'23" West 224.40 feet to the place of beginning.

CONTAINING 0.3412 acres of land more or less.

BEING that same land described in a deed from Walter W. Klausmeier and Dorethea B. Klausmeier to Gustav Carl Klausmeier and John Frederick Klausmeier dated January 12, 1989 and recorded among the Land Records of Baltimore County, Maryland in Liber 8093, folio 577.



Station erected in the Mid-1920s
taken in late 1930s or early
1940s, fronting on Belair Road



October 1991 from Belair
Road, Same Station



PETITIONER'S
EXHIBIT 2

CASE NUMBER 92-106-A
9502 BELAIR ROAD

View of the Property and
proposed building to be
converted from the North



View from the Northeast
showing the existing station
and building to be converted



View from the East looking
across at the building and
existing station



View from the East looking
across at the building and
existing station

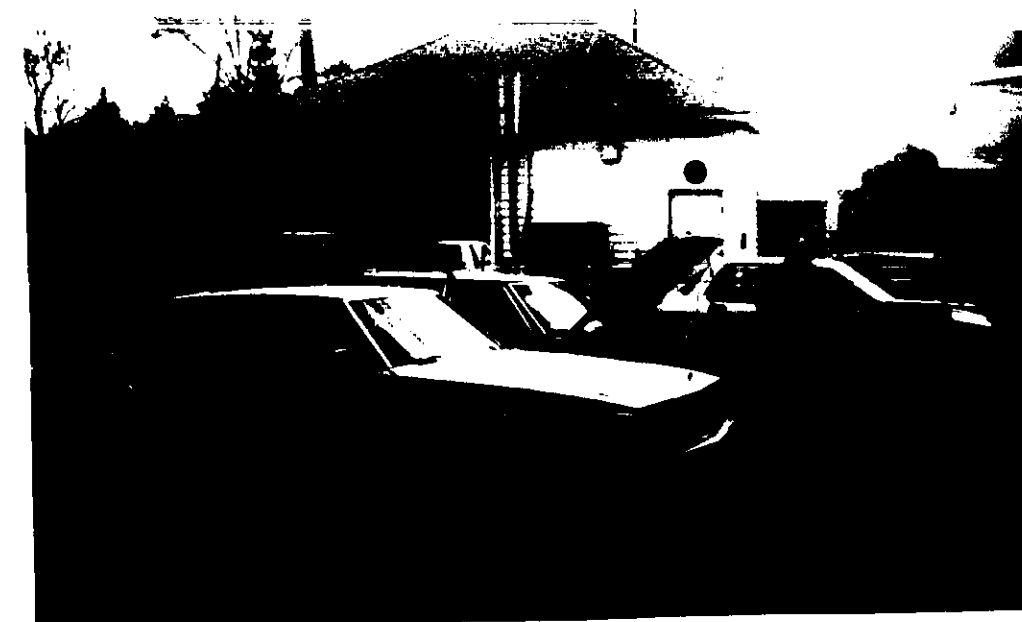


CASE NUMBER 92-106-A
9502 BELAIR ROAD

View from the South
looking North showing
private drive to the
left and Belair Road
to the right with the
existing structures



Interior and present
working conditions



Interior and present
working conditions



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

July 26, 1991

Michael P. Tanczyn, Esquire
606 Baltimore Avenue, Suite 106
Towson, MD 21204

RE: Case No. M.C. 91-2
G. Karl Klausmeier, et al

Dear Mr. Tanczyn:

Enclosed please find a copy of the final Opinion and Order
issued this date by the County Board of Appeals of Baltimore County
in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: G. Karl Klausmeier, et al
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Pat Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
James G. Beach, III, Esquire
Hon. Douglas B. Riley, Chairman
Baltimore County Council
Arnold Jablon, Director of
Zoning Administration

EXHIBIT 7

Oct. 20, 1991



Looking North on Fox Rd from RT. 1 showing
DRAINAGE DITCH FILLED IN WITH STONE & BLACK TOP

EXHIBIT 5

Oct. 11, 1991



Looking South on Fox Rd toward BELAIR RD.

1. VEHICLE on right is parked in HOAN'S DRIVEWAY
2. VEHICLE on LEFT with hood raised is being REPAIRED on Fox Rd.
3. Third vehicle is parked

EXHIBIT 1

Oct. 11, 1991 15 VEHICLES ON LOT
AT STATION 6 VEHICLES AT STATION 2 VEHICLES ON FOX RD



Looking North on Fox Rd.



EAST OF FOX RD.

EXHIBIT 2

Oct. 19, 1991



Looking North on RT. 1

EXHIBIT 3

Oct. 21, 1991

EXHIBIT 4



Abandoned
vehicle
still here

Looking East from Hoan property - 18 VEHICLES ON LOT

cc: Klausmeier
Michael P. Tanczyn, Esq.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

cc: Mr. Gustav Carl Klausmeier
9500 Belair Road
Baltimore, MD 21236

Petitioner: Gustav Carl Klausmeier, et al
Petitioner's Attorney: Michael P. Tanczynski

Please Make Checks Payable To: Baltimore County \$175.00
BA 001:52PM08-29-91

**PETITIONER'S
EXHIBIT 3**

**DEFENDANT'S
EXHIBIT 44 1952**

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 30, 1991
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Klausmeier Property, Item No. 108

In reference to the Petitioner's request, staff offers the following comments:

A landscape plan shall be filed with the Baltimore County landscape planner subject to the approval of the deputy director of the Office of Planning and Zoning. A copy of the approved plan should be forwarded to the Zoning Office to be maintained in the official file.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

TV/JL/rdn

ITEM108/TXTROZ



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

September 11, 1991

Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Zoning Meeting of 9-10-91
Klausmeier Property
W/S Belair Road
(Route 1-N) 131' North of
Walter Avenue
(Item #108)

Attn: Mr. James Dyer

Dear Mr. Jablon:

We have reviewed the submittal for a variance to allow an 11 foot setback in lieu of the required 15 feet from the front building line and have the following comment.

We find the plan acceptable and all work within State Highway Administration right-of-way must be performed under an access permit issued by our office.

If we can be of further assistance, please contact Larry Brocato of this office at 333-1350.

Very truly yours,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

LB:maw

cc: Mr. Karl Klausmeier
Mr. J. Ogle

RECEIVED
SEP 16 1991

ZONING OFFICE

My telephone number is 301-333-1350 (Fax# 333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0421 D.C. Metro - 1-800-492-2022 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 24, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for September 10, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 81, 102, 103, 104, 110, 111, 112, 114, and 115. Also, we have no comments for Case No. R 91 119.

For Item 106, comments will be made at the County Review Group meeting.

For Item 108, the County Review Group comments remain in effect.

For Item 109, comments will be reserved until the County Review Group meeting.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

SEPTEMBER 16, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: GUSTAV CARL AND JOHN FREDERICK KLAUSMEIER
Location: #9502 PELATIP ROAD
Item No.: 108 Zoning Agenda: SEPTEMBER 10, 1991

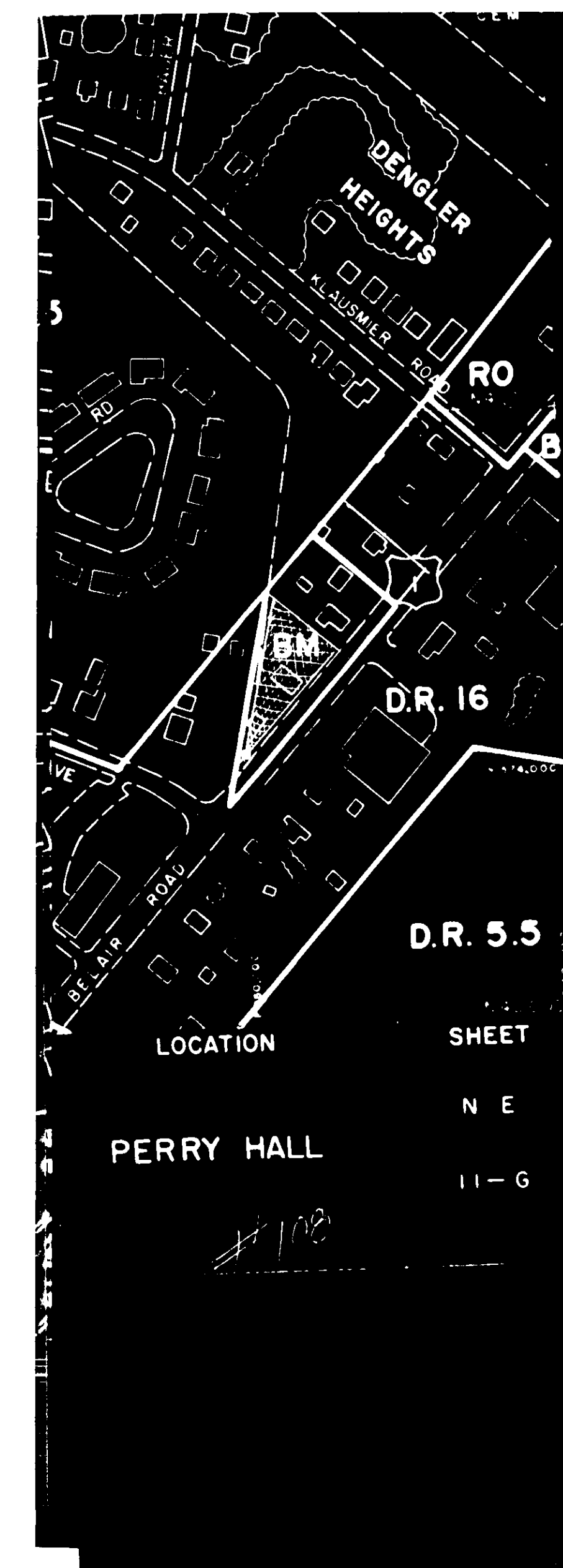
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John Dyer* Noted and Approved: *W. F. Bowling*
Planning Group Fire Prevention Bureau
Special Inspection Division

JF/KEF



VARIANCES FROM SET-BACK LEG REQUIREMENTS			
SYMBOL	REQ'D SET-BACK	REQ'D SET-BACK	EXISTING
(A)	REAR 20'	20'	EXISTING
(B)	SIDE 20'	20'	EXISTING
(C)	REAR 20'	20'	EXISTING
(D)	SIDE 20'	20'	EXISTING
(E)	REAR 20'	20'	EXISTING
(F)	FRONT 15'	15'	NEW ADDITION
(G)	FRONT 15'	15'	EXISTING

AREAS-NEW & EXISTING BUILDING	
GROSS AREA EXISTING BUILDING	
BASEMENT 26.5' x 24' =	636 ^{sq} ft
FIRST FLOOR 26.5' x 24' =	636 ^{sq} ft
SECOND FLOOR 26.5' x 24' =	636 ^{sq} ft
PORCH AREA 26.5' x 24' =	636 ^{sq} ft
TOTAL EXISTING	2,544 ^{sq} ft
GROSS AREA WITH NEW ADDITION	
BASEMENT - FILLING	0 ^{sq} ft
FIRST FLOOR EXIST. 966' NEW 18'5" =	2,141 ^{sq} ft
SECOND FLOOR EXIST. 483' NEW 0' =	0 ^{sq} ft
PORCH EXIST. NEW OFFICE	2,141 ^{sq} ft
EXISTING SERVICE STATION	2,141 ^{sq} ft
TOTAL EXIST. & NEW	3,137 ^{sq} ft

SITE INFO. & REMARKS	
AREA SITE	11,864 ^{sq} ft
PAVED AREA	8,126 ^{sq} ft
OPEN AREA	3,738 ^{sq} ft
SOIL TYPE	CLAY
WATER SHED	2.0
SEWER LINE	414.72
WATER LINE	414.72
REG. NO.	72
NO WELLS OR SEPTIC SYSTEMS ON SITE	
CONSIDERED 74' WIDE FRONT YARD	
24' WIDE SIDE YARD	
1' WIDE REAR YARD	

VICINITY MAP SCALE 1" = 100'

PARKING 5' x 15' 50' = 11 SPACES
EXISTING PAVING = 2,150^{sq} ft
NEW PAVING = 4,150^{sq} ft

CERTIFICATIONS:

THIS IS TO CERTIFY THAT THERE ARE NO DELINQUENT ACCOUNTS FOR ANY OTHER DEVELOPMENTS WITH RESPECT TO THE FOLLOWING:
JOHN & GUSTAV KLAUSMEIER - OWNERS
GLENN A. WATKINS JR. AIA - ARCHITECT
WILSON T. BALLARD CO. CONSULTING ENGINEERS

THIS IS TO CERTIFY THAT THIS PLAN IN CONJUNCTION WITH AND SUPPLEMENTAL TO THE SURVEY AND TOPOGRAPHIC SURVEY, PRELIMINARY SITE PLAN, EXISTING CONDITIONS PLAN AND POST CONSTRUCTION CONDITIONS PLAN, PREPARED BY WILSON T. BALLARD COMPANY, HAS BEEN PREPARED TO THE BEST OF MY KNOWLEDGE IN COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS OF BALTIMORE COUNTY, MARYLAND.
GLENN A. WATKINS JR. AIA - ARCHITECT

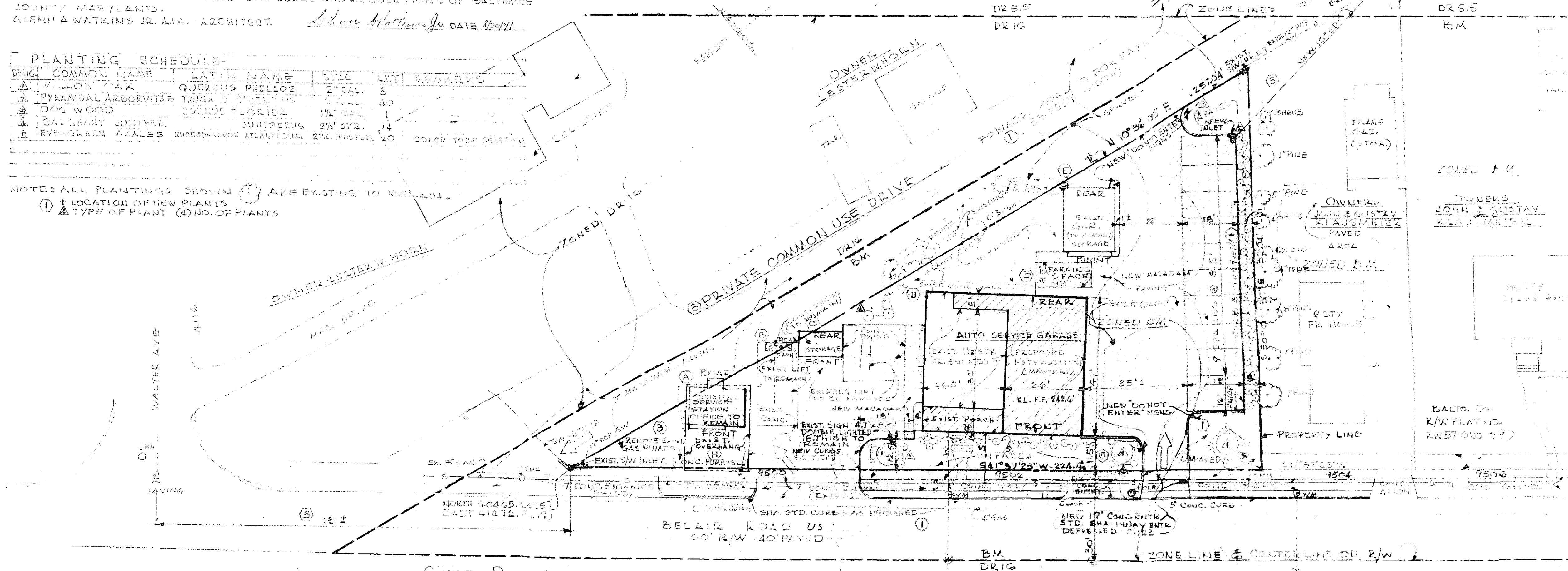
NOTES:

1. BASEMENT SHALL BE 10' MIN. BELOW GRADE PLAN AND
2. NEW ADDITION SHALL BE 10' MIN. BELOW GRADE PLAN AND
3. NO DISABLED OR DAMAGED VEHICLES AND PARTS SHALL BE STORED
4. NO DISABLED OR DAMAGED VEHICLES AND PARTS SHALL BE STORED
5. NO DISABLED OR DAMAGED VEHICLES AND PARTS SHALL BE STORED

PLANTING SCHEDULE

PLANT COMMON NAME	LATIN NAME	SIZE	DATE	REMARKS
1. YEW	QUERCUS PHELLO	2" CAL.	3	
2. PYRAMIDAL ARBORVITAE	TRUGA	2" CAL.	40	
3. DOG WOOD	QUERCUS FLORIDA	1 1/2" CAL.	1	
4. SWEET GUM	QUERCUS FLORIDA	2" CAL.	14	
5. RED BARKED DOGWOOD	QUERCUS FLORIDA	2" CAL.	20	

NOTES: ALL PLANTINGS SHOWN ARE EXISTING TO REMAIN.
1. TYPE OF PLANT 2. LOCATION OF NEW PLANTS
3. TYPE OF PLANT 4. LOCATION OF NEW PLANTS



SITE PLAN SCALE 1" = 20'
DATA TAKEN FROM EXISTING AND TOP SURVEY
BY THE WILSON T. BALLARD CO. DATED 4/16/71

PROPOSED ZONING VARIANCE PLAT
EXHIBIT 1

THE WILSON T. BALLARD CO. PROPOSED VARIATIONS AND
VARIATIONS FROM ZONING ORDINANCES
JOHN & GUSTAV KLAUSMEIER OWNERS
GLENN A. WATKINS JR. AIA - ARCHITECT
WILSON T. BALLARD CO. CONSULTING ENGINEERS
1-19-91 AS NOTED
DRAWING NO. SD-1